

[Senate, July 16, 2008 - Substituted by amendment by the Senate (Ways and Means) for Senate, No. 2716]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

AN ACT TO CREATE A STATE 911 DEPARTMENT, SINGLE 911 SURCHARGE AND AN ENHANCED 911 FUND

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for enhanced 911 service for the citizens of the commonwealth and to make related changes in certain laws, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Section 18 of chapter 6A of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out, in line 5, the words “statewide emergency
3 telecommunications board” and inserting in place thereof the following words:- state 911
4 department.

5 SECTION 2. Said chapter 6A is hereby further amended by striking out sections 18A
6 and 18B, as so appearing, and inserting in place thereof the following 2 sections:-

7 Section 18A. As used in this section, in sections 18B to 18J, inclusive, of this chapter,
8 and in section 14A of chapter 166, the following words shall have the following meanings:

9 “Automatic number identification”, an enhanced 911 service capability that allows for
10 the automatic display of a telephone number used to place or route a 911 call.

11 “Automatic location identification”, an enhanced 911 service capability that allows for
12 the automatic display of information relating to the geographical location of the communication
13 device used to place a 911 call.

14 “Commission”, the state 911 commission.

15 “Communication services” includes any of the following: (a) the transmission,
16 conveyance or routing of real-time, two-way voice communications to a point or between or
17 among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline,
18 wireless or other medium or method, regardless of the protocol used; (b) the ability to provide
19 two-way voice communication on the public switched network; (c) wireless enhanced 911
20 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service as defined
21 by the regulations of the Federal Communications Commission regulations ; (f) IP-enabled
22 service; or (g) prepaid wireless service.

23 “Communication service provider”, an entity that provides communication services to a
24 subscriber or end user.

25 “Department”, the state 911 department.

26 “Director”, the executive director of the state 911 department.

27 “Emergency medical dispatch” the management of requests for emergency medical
28 assistance by utilizing a system of: (a) tiered response or priority dispatching of emergency

29 medical resources based on the level of medical assistance needed by the victim; and (b)
30 prearrival first aid or other medical instructions given by trained personnel responsible for
31 receiving 911 calls and directly dispatching emergency response services.

32 “End user”, a person who uses communication services.

33 “Enhanced 911 fund”, the fund established under section 35JJ of chapter 10.

34 “Enhanced 911 service provider”, any entity that provides 1 or more of the following
35 911 elements: network, database or PSAP customer premises equipment.

36 “Enhanced 911 service”, a service consisting of communication network, database and
37 equipment features provided for subscribers or end users of communication services enabling
38 such subscribers or end users to reach a PSAP by dialing the digits 911, or by other means
39 approved by the department, that directs calls to appropriate PSAPs based on selective routing
40 and provides the capability for automatic number identification and automatic location
41 identification.

42 “Enhanced 911 network features”, the components of enhanced 911 service that provide
43 selective routing, automatic number identification and automatic location identification.

44 “Enhanced 911 systems”, a distinct entity or geographical segment in which enhanced
45 911 service is provided, consisting of network routing elements serving as a control office and
46 trunking connecting all central offices within a geographical segment, and including PSAPs and
47 network used to deliver location data to PSAPs from a data base.

48 “FCC”, the Federal Communications Commission.

49 “FCC order”, all orders issued by the FCC under the proceeding entitled “Revision of
50 the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling
51 Systems” (CC Docket No. 94-102; RM 8143), or any successor proceeding, including all other
52 criteria established therein, regarding the delivery of wireless enhanced 911 service by a
53 wireless carrier, and all orders issued by the FCC under the proceeding entitled “In the Matter of
54 IP-Enabled Services; E911 Requirements for IP-Enabled Service Providers”(WC Docket No
55 05-196), or any successor proceeding, including all other criteria established therein, regarding
56 the delivery of enhanced 911 service by an IP-enabled service provider.

57 “Governmental body” shall include any governmental body as defined in section 11A of
58 chapter 30A or section 23A or chapter 39 of the General Laws.

59 “Interconnected VoIP” provider service, voice over the internet protocol services as
60 defined by the FCC in 47 CFR 9.3.

61 “IP-enabled services”, services, devices, or applications making use of Internet Protocol,
62 or IP, and capable of entering the digits 911, or by other means as approved by the department,
63 for the purposes of interconnecting users to the enhanced 911 system, including, but not limited
64 to, voice over IP and other services, devices, or applications provided through or using wireline,
65 cable, wireless, or satellite facilities or any other facility that may be provided in the future that
66 are capable of interconnecting users with the enhanced 911 system by dialing or entering the
67 digits 911, or by other means approved by the department, to PSAPs.

68 “Local exchange service”, telephone exchange lines or channels that provide local
69 access from the premises of a subscriber in the commonwealth to the local telecommunications
70 network to effect the transfer of information.

71 “Network components”, any software or hardware for a control switch, other switch
72 modification, trunking or any components of a computer storage system or database used for
73 selective routing of 911 calls, automatic number identification and automatic location
74 identification, including a PSAP.

75 “Next generation 911”, an enhanced 911 system that incorporates the handling of all 911
76 calls and messages, including those using IP-enabled services or other advanced
77 communications technologies in the infrastructure of the 911 system itself.

78 “Prepaid wireless telephone service”, wireless service that is activated in advance by
79 payment for a finite dollar amount of service or minutes that terminates either upon use by a
80 customer and delivery by the wireless provider of an agreed-upon amount of service or minutes,
81 unless the customer makes additional payments.

82 “Prepaid wireless telephone service provider”, an entity providing prepaid wireless
83 telephone service at retail or wholesale.

84 “Public safety department”, a functional division of a municipality or a state that
85 provides fire fighting, law enforcement, ambulance, medical or other emergency services.

86 “Private safety department”, an entity, except for a municipality or a public safety
87 department, that provides emergency police, fire, ambulance or medical services.

88 “Public safety answering point” or “PSAP”, a facility assigned the responsibility of
89 receiving 911 calls and, as appropriate, directly dispatching emergency response services or
90 transferring or relaying emergency 911 calls to other public or private safety agencies or other
91 PSAPs.

A “primary PSAP” is equipped with automatic number identification and automatic location identification displays, and is the first point of reception of a 911 call. It serves the municipality in which it is located.

A “secondary PSAP” is equipped with automatic number identification and automatic location identification displays. It receives 911 calls only when they are transferred from the primary PSAP or on an alternative routing basis when calls cannot be completed to the primary PSAP.

A “limited secondary PSAP” is equipped, at a minimum, with automatic number identification and automatic location identification displays or printout capability. It receives 911 calls only when they are transferred from the primary PSAP. Data sent to a limited secondary PSAP cannot be re-routed to another location and may not necessarily be transmitted simultaneously with the voice call.

A “ringing PSAP” is equipped for receipt of voice communications only, and may not operate 24 hours each day. It receives 911 calls that are transferred from the primary PSAP.

A “regional PSAP” is operated by or on behalf of 2 or more municipalities or governmental bodies, or combination thereof, approved by the department, for the operation of enhanced 911 call taking and call transfer activities. A regional PSAP may also be engaged in, by agreement, the dispatching or control of public safety resources serving some or all of the municipalities or governmental bodies that comprise the regional PSAP, including where services are provided by a private safety department. If the regional PSAP serves all such municipalities or governmental bodies for the

operation of enhanced 911 call taking and call transfer activities and dispatch services including where dispatch services are provided by a private safety department, it shall be considered a regional emergency communication center for the purposes of section 18B. The regional PSAP shall be equipped with automatic number identification and automatic location identification displays, as approved by the department, and is the first point of reception of a 911 call.

“PSAP customer premises equipment”, enhanced 911 call processing equipment located at a PSAP.

“Regional emergency communication center”, a facility operated by or on behalf of 2 or more municipalities or governmental bodies, or combination thereof, as approved by the department, that enter into an agreement for the establishment and provision of regional dispatch and coordination of emergency services for all such municipalities or governmental bodies including, but not limited to, a regional PSAP that provides enhanced 911 service, and police, fire protection, and emergency medical services dispatch, including if such services are provided by a private safety department. The regional PSAP portion of the center shall be equipped with automatic number identification and automatic location identification displays, as approved by the department, and is the first point of reception of a 911 call.

“Regional secondary PSAP”, a facility operated by or on behalf of 3 or more municipalities or governmental bodies, or a combination thereof, approved by the department, that enter into an agreement for the establishment and provision of regional dispatch and coordination of either or any combination of police, fire protection, or emergency medical services. A regional secondary PSAP is equipped with automatic number identification and

136 automatic location identification displays. It receives 911 calls only when transferred from a
137 primary or regional PSAP or on an alternative routing basis when calls cannot be completed to
138 the primary or regional PSAP.

139 “Retail”, sales by a prepaid wireless telephone service provider directly to the end user
140 or to a non-prepaid wireless telephone service provider through a voluntary contractual
141 relationship in which the service is sold directly to the end user on behalf of the prepaid wireless
142 telephone service provider.

143 “Selective routing”, the method to direct 911 calls to the appropriate PSAP using a call
144 routing database derived from the geographical location from which the call originated.

145 “Subscriber”, a person who uses communication services.

146 “Telephone company”, a person, firm, corporation, association or joint stock association
147 or company, as defined in chapter 159 of the General Laws, furnishing or rendering local
148 telephone exchange service.

149 “VoIP or Voice over Internet Protocol”, a type of IP-enabled service that allows for the
150 two-way real time transmission of voice communications and has access to the public switched
151 network.

152 “Wholesale”, sales by the prepaid wireless telephone service provider to a non-prepaid
153 wireless telephone service provider that sells service on behalf of the prepaid wireless telephone
154 service provider.

155 “Wireless carrier”, a commercial mobile radio service, as defined in 47 U.S.C. section
156 332(d), including resellers and prepaid providers of wireless services.

157 “Wireless enhanced 911 service”, the service required to be provided by wireless
158 carriers under and governed by the FCC order.

159 “Wireless state police PSAP”, a state police facility assigned the responsibility of
160 primarily or entirely receiving wireless 911 calls and, as appropriate, directly dispatching
161 emergency response services or transferring or relaying emergency 911 calls to other public or
162 private safety departments or other PSAPs.

163 “Wireline carrier”, an incumbent local exchange carrier or local exchange carrier
164 operating in the commonwealth, or a telephone company, or any other person, corporation or
165 entity that provides local exchange service.

166 “Wireline enhanced 911 service”, service provided by a wireline carrier that connects a
167 subscriber dialing or entering the digits 911 to a PSAP.

168 Section 18B. (a) There shall be, within the executive office of public safety and security,
169 a state 911 department. The secretary of public safety and security shall, with the advice of the
170 commission, appoint and, subject to appropriation or funds otherwise available from other
171 sources, fix the salary of an executive director of the department. The director shall be
172 responsible for administering, directing and managing the affairs and business of the
173 department, and for the appointment and supervision of all personnel at the department. The
174 director shall not be subject to section 9A of chapter 30 or chapter 31, but shall be classified in
175 accordance with section 45 of said chapter 30 and the salary shall be determined in accordance

176 with section 46C of said chapter 30. The executive director may appoint such other employees,
177 including experts and consultants, as he deems necessary, subject to appropriation or available
178 funds, to carry out the department's responsibilities.

179 (b) There shall be, within the executive office of public safety and security, a state 911
180 commission to provide strategic oversight and guidance to the department, and advise the
181 department relative to its annual budget and all material changes thereto and in all matters
182 regarding enhanced 911 service in the commonwealth. The commission shall consist of: the
183 secretary of public safety and security, who shall serve as chairperson of the commission; the
184 chief information officer of the information technology division; the colonel of state police; the
185 state fire marshal; the police commissioner of the city of the Boston; the director of the
186 Massachusetts office on disability; the commissioner of public health; the commissioner of the
187 Massachusetts commission for the deaf and hard of hearing; and 10 members to be appointed by
188 the governor, 1 of whom shall be a sitting police chief and a nominated representative of the
189 Massachusetts Chiefs of Police Association, 1 of whom shall be a representative of the
190 Massachusetts Police Association, 1 of whom shall be a sitting police chief and a nominated
191 representative of the Massachusetts Major City Chiefs Association, 2 of whom shall be sitting
192 fire chiefs and nominated representatives of the Massachusetts Fire Chiefs Association, 1 of
193 whom shall be a nominated representative of the Professional Fire Fighters of Massachusetts, 1
194 of whom shall be a nominated representative of the Massachusetts Sheriffs Association, 1 of
195 whom shall be a nominated representative of the Massachusetts Municipal Association, 1 of
196 whom shall be a nominated representative of the Massachusetts Emergency Medical Care
197 Advisory Board, and 1 of whom shall be a manager or supervisor of a PSAP and a nominated
198 representative of the Massachusetts Communication Supervisors Association. One of the

199 governor's appointees shall be elected annually by the commission as its vice chairperson.
200 Members of the commission shall be appointed for terms of 3 years with no limit on the number
201 of terms they may serve. Members shall hold office until a successor is appointed and no
202 member shall serve beyond the time he ceases to hold the office or employment that made him
203 eligible for appointment to the commission. The commission shall meet at least twice annually,
204 and at other times as necessary. A meeting of the commission may be called by its chairperson,
205 the vice chairperson or 3 of its members. A quorum for the transaction of business shall consist
206 of 7 members. Members of the commission shall receive no compensation, but shall be
207 reimbursed for their expenses actually and necessarily incurred in the discharge of their duties.
208 The commission shall review and approve by a majority vote of those members present all
209 formulas, percentages, guidelines or other mechanisms used to distribute the grants described in
210 section 18B, and all major contracts that the department proposes to enter into for enhanced 911
211 services. The commission shall review and approve by a majority vote of those members
212 present all regulations and standards proposed by the department.

213 (c) There shall be established a policy advisory committee for the sole purpose of
214 advising the state 911 commission and state 911 department on pertinent subject matter relative
215 to enhanced 911 service, enhanced 911 systems and enhanced 911 network features. The
216 advisory board shall consist of 5 members, of whom shall represent an incumbent local
217 exchange carrier, 1 of whom shall represent a competitive local exchange carrier registered in
218 the commonwealth, 1 of whom shall represent a PSAP customer premises equipment provider,
219 1 of whom shall represent an interconnected VoIP provider, and 1 of whom shall represent a
220 wireless carrier. Members of the advisory board shall be residents of the state and shall be
221 appointed by the governor from a list of qualified candidates provided by industry

222 representatives for terms of 3 years with no limit on the number of terms they may serve. A
223 meeting of the policy advisory committee may be called by the state 911 commission
224 chairperson, vice chairperson, or 3 of its members. Members of the policy advisory committee
225 shall receive no compensation, but shall be reimbursed for their expenses actually and
226 necessarily incurred in the discharge of their duties. The advisory board shall review all issues

227 relative to industry interaction and network compatibility with the current enhanced 911
228 system, and with next generation 911. The policy advisory committee shall file a written report
229 annually with the state 911 commission and the state 911 department.

230 (d) The department shall coordinate and effect the implementation of enhanced 911
231 service, and administer such service in the commonwealth. The department, with the
232 commission's approval, shall promulgate rules and regulations for the administration of such
233 service in accordance with chapter 30A, including technical and operational standards for the
234 establishment of PSAPs which utilize enhanced 911 service features in accordance with section
235 14A of chapter 166 and sections 18A to 18J of this chapter. Cities and towns shall comply with
236 such standards in the design, implementation and operation of PSAPs. The department may
237 inspect each PSAP that utilizes enhanced 911 network features to determine if it meets the
238 requirements of said section and all other technical and operational standards required by law.
239 In implementing wireless enhanced 911 service and enhanced 911 for IP-enabled services, the
240 department shall promulgate rules and regulations consistent with the provisions required by the
241 FCC.

242 (e) The number of PSAPs and enhanced 911 answering positions at primary and regional
243 PSAPs shall be determined by the department according to a formula that takes into account

244 cost, call volume, population, efficiency and the public safety needs of cities and towns.
245 Applications for secondary PSAPs shall be reviewed and approved by the department. The
246 PSAP customer premises equipment, installation and operation costs of secondary PSAPs shall
247 be the responsibility of the applicant, but the department may provide such equipment and
248 related maintenance if the applicant so requests and meets eligibility requirements established
249 by the department in standards approved by the commission. Network and database services for
250 secondary PSAPs shall be provided as approved by the department. Applications for regional
251 secondary PSAPs shall be reviewed and approved by the department. The PSAP customer
252 premises equipment and installation of such equipment shall be provided by the department
253 from the development grant set forth in paragraph (5) of subsection (i) in accordance with
254 guidelines to be established by the department with the commission's approval. Network and
255 database services for regional secondary PSAPs shall be provided as approved by the
256 department.

257 (f) The department shall disburse funds from the enhanced 911 fund for prudently-
258 incurred expenses associated with: the lease, purchase, upgrade or modification of primary and
259 regional PSAP customer premises equipment and the maintenance of such equipment; network
260 development, operation and maintenance; database development, operation, and maintenance;
261 training of 911 telecommunicators regarding the receipt and use of enhanced 911 service
262 information; education of consumers regarding the operation, limitation, role and responsible
263 use of enhanced 911 service; grants associated with enhanced 911 service as set forth in
264 subsection (i) and any other grant approved by the department associated with providing
265 enhanced 911 service in the commonwealth; the recurring and nonrecurring costs of
266 communication services providers in providing enhanced 911 service in the commonwealth to

267 the extent required by federal or Massachusetts law or regulation or federal or Massachusetts
268 agency decision or order; and other expenses incurred by the state 911 department in
269 administering and operating the enhanced 911 system in the commonwealth.

270 (g) The department, with the commission's approval, shall establish: performance
271 measure standards for the enhanced 911 service provider for network, database, and PSAP
272 customer premises equipment and associated maintenance services; service level standards for
273 communication services providers for providing enhanced 911 service in the commonwealth
274 including, but not limited to, standards for the provision of enhanced 911 access for the disabled
275 community; certification requirements for enhanced 911 telecommunicators including, but not
276 limited to, emergency medical dispatch and quality assurance of emergency medical dispatch
277 programs; standards requiring PSAPs to have certified emergency medical dispatch personnel or
278 to provide emergency medical dispatch through a certified emergency medical dispatch
279 resource; and guidelines for developing and administering any grant authorized in subsection
280 (h), or any other grant associated with providing enhanced 911 service in the commonwealth
281 approved by the commission and the department of telecommunications and cable upon the
282 petition of the department including, but not limited to, provisions requiring municipalities to
283 provide documentation of expenditures. The department of telecommunications and cable shall
284 conduct its review and issue a decision within 90 days of the date the department files its
285 petition, but the request for approval shall be deemed approved if the department of
286 telecommunications and cable does not issue its decision within 90 days. The department shall
287 initiate a voluntary program in which municipalities may contribute timely address information
288 to support the enhanced 911 database.

289 (h) The department shall review and assess the technological and operational capability
290 and financial feasibility of wireless 911 calls being routed to and handled directly by the PSAP
291 in which the caller is located, and if such capability exists, the department shall establish
292 standards, with the commission's approval, by which such PSAPs may receive wireless calls.
293 The department shall review and assess new communications technologies that may include, but
294 are not limited to, wireless, video, broadband, and IP-based applications that may serve as the
295 next generation 911 technology platforms, consistent with FCC decisions.

296 (i) The department shall develop and administer grant programs to assist PSAPs and
297 regional emergency communication centers in providing enhanced 911 service and to foster the
298 development of regional PSAPs, regional secondary PSAPs and regional emergency
299 communication centers. The following grant programs shall be funded by the department as
300 specified, and the department may add necessary personnel to develop and administer such
301 grant programs.

302 (1) The PSAP and regional emergency communication center training grant shall
303 reimburse primary, regional and regional secondary PSAPs and regional emergency
304 communication centers for allowable expenses related to the training and certification of
305 enhanced 911 telecommunicators. Funds shall be disbursed according to a formula that
306 weighs both population served and 911 call volume, unless a different formula is
307 approved by the commission. Five percent of the total surcharge revenues of the
308 previous fiscal year shall be allocated to this grant, unless such percentage is otherwise
309 increased by the approval of the commission for the purposes of this grant. Any such
310 increase to a level of 7.5 per cent or more shall also be approved by the department of
311 telecommunications and cable, upon petition of the department. The department of

telecommunications and cable shall conduct its review and issue a decision within 90 days of the date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level no less than 3.75 per cent of the total surcharge revenues of the previous fiscal year.

(2) The PSAP and regional emergency communication center support grant shall reimburse: primary, regional and regional secondary PSAPs and regional emergency communication centers for allowable expenses related to enhanced 911 telecommunicator personnel costs, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment and other environmental control equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarm receipt and alert equipment associated with providing enhanced 911 service; regional PSAPs and regional emergency communication centers for allowable expenses related to the acquisition and maintenance of public safety radio systems; regional secondary PSAPs for allowable expenses related to PSAP customer premises equipment maintenance; and primary, regional, and regional secondary PSAPs and regional emergency communication centers for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the department. Funds shall be disbursed according to a formula that weighs both population served and 911 call volume, unless a different formula is approved by the commission. Twenty-five per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of

the commission for the purposes of this grant. Any such increase to a level of 31.25 per cent or more shall also be approved by the department of telecommunications and cable, upon petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of date the department files its petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level no less than 18.75 per cent of the total surcharge revenues of the previous fiscal year. In the guidelines administering this grant, the department may include provisions to increase the allocation of funds to primary PSAPs provided under this grant that dispatch police, fire protection and emergency medical services, taking into account if any such services are provided by a private safety department. The department may include in such guidelines provisions to increase the allocation of funds to regional secondary PSAPs that dispatch any combination of regional police, fire protection or emergency medical services.

(3) The wireless state police PSAP grant shall reimburse the wireless state police PSAPs for allowable expenses related to enhanced 911 telecommunicator personnel costs, training and certification of enhanced 911 telecommunicators, and the acquisition and maintenance of heat, ventilation and air-conditioning equipment, computer-aided dispatch systems, console furniture, dispatcher chairs, radio consoles, and fire alarming receipt and alert equipment to be used at the state police PSAPs. The grant shall reimburse such PSAPs for any other equipment and related maintenance associated with providing enhanced 911 service as approved by the department. Funds shall not be used

for any equipment or services that are not directly related to the provision of enhanced 911 services or the operation of the state police PSAPs. Four per cent of the total surcharge revenues of the previous fiscal year shall be allocated to this grant, unless such percentage is otherwise increased by the approval of the commission for the purposes of this grant. Any such increase to a level of 6 per cent or more shall also be approved by the department of telecommunications and cable, upon the petition of the department. The department of telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days. The department, with commission approval, may decrease such percentage in any fiscal year for budgetary reasons, but to a level no less than 2 per cent of the total surcharge revenues of the previous fiscal year. In the guidelines administering this grant, the department may include provisions to increase the allocation to the wireless state police PSAPs to account for such PSAPs handling of wireline 911 calls for municipalities.

(4) The regional PSAP and regional emergency communication center incentive grant shall provide regional PSAPs and regional emergency communication centers with funds in addition to amounts allocated as part of the PSAP and regional emergency communication center support grant to be used for reimbursement of allowable expenses as specified in the support grant for regional PSAPs and regional emergency communication centers in the following amounts: (i) for regional PSAPs serving 2 municipalities, $\frac{1}{2}$ of 1 per cent of the total surcharge revenues of the previous fiscal year; (ii) for regional PSAPs serving 3 to 9 municipalities, 1 per cent of the total surcharge

381 revenues of the previous fiscal year; (iii) for regional PSAPs serving 10 or more
382 municipalities, 1½ per cent of the total surcharge revenues of the previous fiscal year;
383 and (iv) for regional emergency communication centers, 2 per cent of the total surcharge
384 revenues of the previous fiscal year. The percentages in each category may be adjusted
385 by the commission to ensure a proper allocation of incentive funds as more regional
386 PSAPs and regional emergency communication centers are added. Any such
387 adjustments that increase the initial total allocation of the incentive grant by 10 per cent
388 or more shall be approved by the department of telecommunications and cable, upon the
389 petition of the department. The department of telecommunications and cable shall
390 conduct its review and issue a decision within 90 days of the date of the filing of the
391 petition, but the request for approval shall be deemed approved if the department of
392 telecommunications and cable does not issue its decision within such 90 days.

393 (5) The regional and regional secondary PSAP and regional emergency communication
394 center development grant shall support the development and startup of regional and
395 regional secondary PSAPs and regional emergency communication centers, including
396 the expansion or upgrade of existing regional and regional secondary PSAPs, to
397 maximize effective emergency 911 and dispatch services as well as regional
398 interoperability. The eligibility for criteria, amount and allocation of funding shall be
399 contained in guidelines established by the department, with commission approval. The
400 grant shall reimburse allowable expenses related to such development and startup, or
401 expansion or upgrade. Any subsequent adjustments that increase the initial funding
402 allocated to this grant by 10 per cent or more shall be approved by the department of
403 telecommunications and cable, upon the petition of the department. The department of

telecommunications and cable shall conduct its review and issue a decision within 90 days of the date of the filing of the petition, but the request for approval shall be deemed approved if the department of telecommunications and cable does not issue its decision within 90 days.

(j) The department shall file a written annual report with the governor and shall file a copy thereof with the state secretary, the chairpersons of the joint committee on public safety and homeland security, the chairperson of the house ways and means committee, the chairperson of the senate ways and means committee, the clerk of the house of representatives and the clerk of the senate. The department shall review and monitor the expenditures incurred under the grant programs established in section 18B ensure compliance with grant guidelines. The department shall include a reporting of grant expenditures by municipality in the written annual report. Not later than June 30 every 3 years the department shall prepare a report documenting the expenditures of each recipient of funds from surcharge revenues to ensure compliance with applicable statutes and regulations.

(k) The department may enter into contracts and agreements with, and accept gifts, grants, contributions and bequests of funds from, any department, agency or subdivision of federal, state, county or municipal government and any individual, foundation, corporation, association or public authority for the purpose of providing or receiving services, facilities or staff assistance in connection with its work. Such funds shall be deposited with the state treasurer and credited to the enhanced 911 fund.

(l) No provision of this section shall be construed or interpreted to alter the regulation of providers of telecommunications services under chapter 159.

426 (m) The department shall work with the Massachusetts Office on Disability, the
427 Massachusetts Commission for the Deaf and Hard of Hearing, the disability community and
428 with municipalities to ensure that communication services providers are aware of the
429 availability and use of adaptive technology, and to ensure that enhanced 911 service is
430 accessible to people with disabilities.

431 SECTION 3. Said chapter 6A is hereby further amended by striking out section 18C, as
432 so appearing, and inserting in place thereof the following section:-

433 Section 18C. (a) Each PSAP shall be capable of transmitting a request for law
434 enforcement, fire fighting, medical, ambulance or other emergency services to a public or
435 private safety department that provides the requested services.

436 (b) Each primary and regional PSAP shall be equipped with a system approved by the
437 department for the processing of requests for emergency services from people with disabilities.

438 (c) Except as approved by the department, no person shall permit an automatic alarm or
439 other alerting device to dial the numbers 911 automatically or provide a prerecorded message in
440 order to access emergency services directly.

441 (d) A public safety department or private safety department that receives a request for
442 emergency service outside of its jurisdiction shall promptly forward the request to the PSAP or
443 public safety department responsible for that geographical area. Any emergency unit dispatched
444 to a location outside its jurisdiction in the commonwealth in response to such request shall
445 render service to the requesting party until relieved by the public safety department responsible
446 for that geographical area.

447 (e) Municipalities may enter into written cooperative agreements to carry out the
448 provisions of subsections (a), (b) and (d).

449 SECTION 4. Said chapter 6A is hereby further amended by striking out section 18D, as
450 so appearing, and inserting in place thereof the following section:-

451 Section 18D. (a) Each municipality in the commonwealth, under the requirements of
452 chapter 150E, shall establish, staff and operate, in conjunction with 1 or more other
453 municipalities or governmental bodies, as determined by the department, or by itself, a PSAP on
454 a 24 hour a day, 7 days a week basis, in a manner and according to a schedule to be approved by
455 the department.

456 (b) The department shall review each proposed municipal or regional plan to determine
457 if it meets the requirements of law, and the technical and operational standards established by
458 the department. The department shall require primary and regional PSAPs to display automatic
459 number identification, automatic location identification and may require other enhanced 911
460 features that are or may become available and set forth in the department's regulations,
461 standards and guidelines for administration of statewide E911 services. The primary and
462 regional PSAP shall be designed according to the plan as specified in subsection (c).

463 (c) The department shall develop and maintain a statewide plan for the implementation
464 and maintenance of enhanced 911 service, including next generation 911 and IP-enabled 911
465 services and, if the technological and operational capability and financial feasibility exists, the
466 routing of 911 wireless calls to primary and regional PSAPs. Such plan shall include the
467 following:

468 (1) A division of the commonwealth into geographical segments under which an
469 enhanced 911 system shall be established for each municipality, or by groups of
470 municipalities, or by other governmental bodies, or groups of other governmental

bodies, or by a combination of municipalities or governmental bodies, as specified and approved by the department.

(2) An implementation schedule, developed after consultation with communication services providers for the sequence of converting to enhanced 911 systems or next generation 911 systems.

(3) A designation, within each enhanced 911 system, of the municipalities and the public safety departments within such municipalities to serve as the primary or regional PSAPs. The department shall also evaluate the need for secondary and regional secondary PSAPs in municipalities which have requested them. It shall be the responsibility of the department to make the final determination regarding the total number and location of such PSAPs.

(4) The department shall, not later than September 30, annually, review the existing configuration of primary, regional, regional secondary, limited secondary and ringing PSAPs and develop changes or recommendations for change by December 31, annually.

SECTION 5. Said chapter 6A is hereby further amended by striking out section 18E, as so appearing, and inserting in place thereof the following section:-

Section 18E. The attorney general may, at the request of the department or on his own initiative, institute civil proceedings against any municipality or other governmental body operating a PSAP, or any enhanced 911 service provider or communication services provider, to enforce sections.

SECTION 6. Section 18F of said chapter 6A is hereby repealed.

SECTION 7. Said chapter 6A is hereby further amended by striking out section 18G, as so appearing, and inserting in place thereof the following section:-

494 Section 18G. The department shall require that each PSAP that possesses enhanced 911
495 service shall retain 911 recordings for a period of not less than 1 year.

496 SECTION 8. Said chapter 6A is hereby further amended by striking out section 18H, as
497 so appearing, and inserting in place thereof the following section:-

498 Section 18H. (a) There shall be imposed on each subscriber or end user whose
499 communication services are capable of accessing and utilizing an enhanced 911 system, a
500 surcharge in the amount of 75 cents per month for expenses associated with services provided
501 under sections 18A to 18J, inclusive, and sections 14A and 15E of chapter 166. For wireline
502 enhanced 911 service, the charge shall be imposed on each voice grade exchange telephone line
503 of business and residence customers within the commonwealth, but the surcharge applicable to
504 centrex service and ISDN primary rate interface service shall be based on an equivalency ratio
505 provided to each private branch exchange trunk. For wireless enhanced 911 service, the charge
506 shall be imposed per wireless mobile telephone number, based on the area code chosen by the
507 subscriber or end user. With the approval of the department, a wireless carrier may impose this
508 surcharge based on the subscriber's or end user's billing address. For interconnected VoIP
509 provider service, the charge shall be imposed on each voice grade telephone line of business and
510 residence customers within the commonwealth, but the surcharge applicable to such
511 interconnected VoIP provider service that is comparable to centrex service and ISDN primary
512 rate interface service associated with wireline enhanced 911 service shall be based on an
513 equivalency ratio similar to that used for wireline enhanced 911 service. For IP-enabled service,
514 the charge shall be imposed based on the subscriber's or end user's billing address in the
515 commonwealth except for interconnected VoIP provider service, unless a different method is
516 approved by the department. For prepaid wireless service, the department shall promulgate

517 regulations establishing an equitable and reasonable method for the remittance and collection of
518 the surcharge or surcharge amounts for such service. For all other services not identified above,
519 the surcharge shall be imposed based on the subscriber's billing address in the commonwealth,
520 unless a different method is approved by the department.

521

522 The surcharge shall be collected by the communication service provider and shall be
523 shown on the subscriber's or end user's bill as "Disability Access/Enhanced 911 Service
524 Surcharge", or an appropriate abbreviation. The surcharge shall not be subject to sales or use
525 tax. The subscriber or end user shall be liable for the surcharge imposed under this section, and
526 the commonwealth services provider shall not financially liable for surcharges billed on behalf
527 of the commonwealth but not collected from subscribers or end users. Partial subscriber or end
528 user payments shall be first applied to outstanding communication service provider charges.

529 (b) The department may petition the department of telecommunications and cable for an
530 adjustment in the surcharge established in subsection (a). The department of
531 telecommunications and cable shall be responsible for establishing the new surcharge, and all
532 future surcharges, upon petition of the department. The department of telecommunications and
533 cable, at its discretion but not more than once per calendar year, may investigate the prudence
534 of the department's revenue and expenditures for the purpose of recalculating the surcharge,
535 and may hire experts to assist in its investigation. The reasonable cost of such experts shall be
536 charged to the enhanced 911 fund, but in no event shall such cost exceed \$200,000, which may
537 be adjusted to reflect changes in the consumer price index. The department of
538 telecommunications and cable shall conduct its review and issue a decision within 90 days of
539 the date of the commencement of the investigation, but the surcharge shall be deemed approved

540 if the department of telecommunications and cable does not issue its decision within such 90
541 days. The department of telecommunications and cable shall adopt rules that provide for the
542 funding of prudently incurred expenses associated with services provided by sections 18A to
543 18J, inclusive of this chapter, and sections 14A and 15E of chapter 166, by means of the
544 surcharge. The department shall report annually to the department of telecommunications and
545 cable on the financial condition of the enhanced 911 fund and on the department's assessment
546 of new developments affecting the enhanced 911 system. The report shall be submitted to the
547 department of telecommunications and cable within 60 days of the end of each fiscal year. The
548 department of telecommunications and cable shall annually report to the general court relative
549 to the financial condition of the enhanced 911 fund.

550 (c) The department shall seek the approval of the department of telecommunications
551 and cable for projected total expenditures that exceed total expenditures of the previous fiscal
552 year by 10 per cent or more. The department of telecommunications and cable may investigate
553 the reasonableness of the expenditures and shall conduct its review and issue a decision within
554 90 days from the date the department files its request for approval, but the request for approval
555 shall be deemed approved if the department of telecommunications and cable does not issue its
556 decision within such 90 days. The department of telecommunications and cable shall notify the
557 department of its intent to investigate within 20 days of the date the department files its request
558 for approval. The department's request for approval shall be deemed approved in the absence
559 of the department of telecommunication and cable's notification to the department of its intent
560 to investigate. If the department of telecommunication and cable notifies the department that it
561 intends to investigate an expenditure, the department of telecommunications and cable may hire
562 experts to assist in its investigation. The reasonable cost of the experts shall be charged to the

563 enhanced 911 fund, but in no event shall such cost exceed \$200,000, which may be adjusted to
564 reflect changes in the consumer price index.

565 (d) Each communication service provider shall remit the surcharge revenues collected
566 from its subscribers or end users to the state treasurer for deposit in the enhanced 911 fund. The
567 surcharge revenues shall be expended for the administration and programs of the department
568 including, but not limited to, salaries, enhanced 911 training programs, enhanced 911 public
569 education programs, the creation of PSAP customer premises equipment for, and maintenance
570 of, primary and regional PSAPs, the programs mandated by section 18B and sections 14A and
571 15E of chapter 166, and for the implementation and administration of enhanced 911 service in
572 the commonwealth.

573 (e) Each communication service provider required to remit surcharge revenues shall
574 submit to the department and the department of telecommunications and cable information on
575 its business entity including, but not limited to, name, business address, contact person and the
576 telephone number, fax number and e-mail address of such contact person. Each such provider
577 shall update this information annually.

578 (f) Each communication service provider shall report to the department on a monthly
579 basis the total surcharge revenues collected from its subscribers or end users during the
580 preceding month, the total uncollected surcharge revenues from subscribers or end users during
581 the preceding month, the total amount billed to the department for administration costs to cover
582 the expenses of billing, collecting and remitting the surcharge during the preceding month, and
583 the total amount billed to the department for non-recurring and recurring costs associated with
584 any service, operation, administration or maintenance of enhanced 911 service during the
585 preceding month. Notwithstanding any general or special law to the contrary, such monthly

586 report shall not be a public record.

587 (g) A communication service provider shall forward to any PSAP or any other
588 answering point equipped for enhanced 911 service, or upon request to a municipal, state, or
589 federal law enforcement agency, the department of telecommunications and cable, the FCC, or
590 the department the telephone number and street address, or location, of any telephone used to
591 place a 911 call, and any other call data or information required by the FCC to be transmitted to
592 a PSAP.

593 Subscriber or end user information or data provided in accordance with this section shall
594 be used only for the purpose of responding to emergency calls, administering and operating the
595 enhanced 911 system and providing enhances 911 service, or for use in any ensuing
596 investigation or prosecution, including the investigation of false or intentionally misleading
597 reports of incidents requiring emergency service. No communication service provider or
598 officers, directors, employees, vendors and agents shall be liable in any action to any person for
599 releases of information authorized by this section. Release to or use by any person of a
600 communication service provider's subscriber or end user information or data for any use other
601 than the enumerated purposes in this subsection shall be prohibited. Notwithstanding any
602 general or special law to the contrary, such information or data shall not be a public record
603 under clause twenty-sixth of section 7 of chapter 4, except that aggregated information that does
604 not identify or effectively identify specific subscriber or end user information or data may be
605 made public.

606 (h) The department shall examine call volumes of all primary, regional and regional
607 secondary PSAPs, and the population changes of the municipalities they serve, and may use
608 such information in determining the disbursement of funds as set forth in section 18B.

609 SECTION 9. Section 18H1/2 of said chapter 6A is hereby repealed.

610 SECTION 10. Said chapter 6A is hereby further amended by striking out section 18I, as

611 appearing in the 2006 Official Edition, and inserting in place thereof the following 2 sections:-

612 Section 18I. Notwithstanding any general or special law to the contrary, a municipality
613 or other governmental body, under the requirements of chapter 150E, may modify, change or
614 alter communication equipment used in the municipality's or other governmental body's
615 enhanced 911 system in order to permit the monitoring of emergency 911 communications by
616 the fire department of the municipality or other governmental body at a secure location staffed
617 at all times by fire department personnel fully trained in such monitoring. The emergency 911
618 communications shall be monitored in a manner that prevents any broadcast of such
619 communications to the general public. The secure location used for monitoring emergency 911
620 communications shall be restricted to trained fire department personnel when such
621 communications are being monitored. No such modification or change in a municipality's or
622 other governmental body's wireline carrier equipment or enhanced 911 system shall cause any
623 degradation of the state's 911 system.

624
625 Section 18J. Beginning July 1, 2009, any new or substantially renovated multi-line
626 telephone system shall provide the same level of enhanced 911 service that is provided to others
627 in the commonwealth. The department shall adopt regulations to implement this requirement. In
628 such regulations the department may exempt certain multi-line telephone systems from this
629 requirement based on such factors as costs and the public benefits of compliance, except that
630 accessibility of such a system to people with disabilities may only be waived when the
631 proponent of the waiver has shown it to be technologically infeasible or of excessive cost

632 without benefit to the disability community. For the purposes of this section, a “multi-line
633 telephone system” shall mean a system comprised of common control units, telephones and
634 control hardware and software providing local telephone service to multiple end-use customers
635 in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels,
636 resorts, extended care facilities, or similar entities, facilities or structures. “Multi-line telephone
637 system” includes: (1) network and premises based systems such as centrex, pbx and hybrid key
638 telephone systems; and (2) systems owned or leased by governmental agencies, nonprofit
639 entities and for-profit businesses.

640 SECTION 11. Section 35W of chapter 10 of the General Laws is hereby repealed.

641 SECTION 12. Section 35W1/2 of said chapter 10 is hereby repealed.

642 SECTION 13. Said chapter 10 is hereby amended by inserting after section 35II,
643 inserted by section 3 of chapter 169 of the acts of 2008, the following section:-

644 Section 35JJ. (a) There is hereby established and set up on the books of the
645 commonwealth a separate fund to be known as the enhanced 911 fund. There shall be credited
646 to such fund all revenues received by the commonwealth from surcharges imposed under
647 section 18H of chapter 6A; from appropriations; from gifts, grants, contributions and bequests
648 of funds from any department, agency or subdivision of federal, state or municipal government,
649 and any individual foundation, corporation, association or public authority; revenue derived
650 from the investment of amounts credited to the fund; and any federal funds made available for
651 emergency telecommunication services. The fund shall be used solely for the purposes
652 described in sections 18A through 18J of said chapter 6A.

653 (b) Amounts credited to the fund shall be available for expenditure by the state 911
654 department, without further appropriation. The state 911 department shall report annually to the

655 general court its planned expenditures for the next fiscal year; the uses to which the fund was
656 used in the last fiscal year and the balance remaining in the fund; and the aggregate surcharges
657 collected in the last fiscal year based upon monthly reports of communication services providers
658 as required under subsection (f) of section 18H of chapter 6A. The report shall also include a
659 request, if necessary, for appropriation for deposit in the fund.

660

661 SECTION 14. Chapter 166 of the General Laws is hereby amended by striking out
662 section 14A, as appearing in the 2006 Official Edition, and inserting in place thereof the
663 following section:-

664 Section 14A. (a) In order to establish statewide enhanced 911 service, upon the written
665 request of the state 911 department, established by section 18B of chapter 6A, hereinafter
666 referred to as the department, each telephone company providing local exchange service in the
667 state shall provide and maintain enhanced 911 service in compliance with a schedule established
668 by the department after consultation with the phone company.

669 (b) Each municipality in the commonwealth shall be served by a primary or regional
670 PSAP, that utilizes enhanced 911 network features in accordance with the implementation
671 schedule established by the department under the provisions of section 18D of chapter 6A.

672 (c) No provision of law shall be construed to prohibit or discourage the formation of
673 multi-department, multi-jurisdictional or regional PSAPs, or regional emergency
674 communication centers. Any PSAP may serve the jurisdiction of more than one public
675 department or a segment of the jurisdiction of a municipality.

676 (d) A telephone company shall forward to any PSAP or any other answering point
677 equipped for enhanced 911 service, the telephone number and street address of any telephone

678 used to place a 911 call. Subscriber information provided in accordance with this section shall
679 be used only for the purpose of responding to emergency calls or for use in any ensuing
680 investigation or prosecution, including the investigation of false or intentionally misleading
681 reports of incidents requiring emergency service. No telephone company, nor the agents of any
682 telephone companies, shall be liable in any action to any person for releases of information as
683 permitted in this section.

684 (e) As enhanced 911 service becomes available and where facilities are available, each
685 telephone company and owner of a private coin telephone in the state shall convert each public
686 coin or coinless telephone within areas served by such enhanced 911 service to dial tone first
687 capability, which will allow a caller to dial 911 without first inserting a coin or paying any other
688 charge. Each provider of public coin or coinless telephone shall provide access to enhanced 911
689 service, and prominently display instructions on how to use such system.

690

691 SECTION 15. Said chapter 166 is hereby amended by striking out section 15E, as
692 appearing in section 47 of chapter 19 of the acts of 2007, and inserting in place thereof the
693 following section:-

694 Section 15E. (a) As used in this section, the following words shall, unless the context
695 requires otherwise, have the following meanings:--

696 “Captioned telephone”, an amplified telecommunications device with a text display that
697 permits the user to both listen to what is said over the telephone and simultaneously read
698 captions of what the other person is saying allowing the hard of hearing person to utilize
699 captioned telephone service.

700 “Captioned telephone service”, an enhanced voice carry over telecommunications relay
701 service, a system which uses third party intervention to connect persons with a hearing disability
702 but with some residual hearing to engage in communication by wire or radio with a hearing
703 individual in a manner that is functionally equivalent to the ability of an individual who does
704 not have a hearing disability to communicate using voice communication services by wire or
705 radio.

706 "Common carrier", as the term is used in chapters 159 and 166, and referring to a
707 business in the commonwealth that is a provider of local exchange service, so-called, to 1,000
708 or more subscribers. For the purposes of this section, the term shall also include a municipal
709 lighting plant or cooperative that operates a telecommunications system under section 47E of
710 chapter 164.

711 “Communication services”, includes any of the following: (a) the transmission,
712 conveyance, or routing of real-time, two-way voice communications to a point or between or
713 among points by or through any electronic, radio, satellite, cable, optical, microwave, wireline,
714 wireless, or other medium or method, regardless of the protocol used; (b) the ability to provide
715 two-way voice communication on the public switched network; (c) wireless enhanced 911
716 service; (d) wireline enhanced 911 service; (e) interconnected VoIP provider service, as defined
717 by Federal Communication Commission regulations; (f) IP-enabled service; or (g) prepaid
718 wireless service.

719 “Communication service provider”, an entity that provides communication services to a
720 subscriber or end user.

721 "Deaf", a severe to profound hearing loss, which, in the majority of circumstances,
722 resulting in an inability to effectively use a conventional telephone without the assistance of a
723 test telephone or other nonvoice terminal device.

724 "Department" the State 911 department.

725 "Disability", a physical, cognitive, sensory or mental impairment that substantially limits
726 one or more major activity such as caring for oneself, performing manual tasks, walking, seeing,
727 hearing, breathing, learning and working, and results in an inability to use a telephone without
728 the assistance of specialized telephone equipment.

729 "Hard of hearing", a hearing loss, which, in the majority of circumstances, results in an
730 inability to effectively use a telephone without the assistance of a sound amplification control or
731 telephone without the use of a hearing aid and a hearing aid compatible handset.

732 "Hearing carry over" or "HCO", a form of telecommunications relay service, or TRS,
733 where the person with the speech disability is able to listen to the other end user and, in reply,
734 the third party speaks the text as typed by the person with the speech disability. The third party
735 does not type any conversation. Two-line HCO is an HCO service that allows TRS users to use
736 one telephone line for hearing and the other for sending text telephone, or TTY, messages.
737 HCO-to-TTY allows a relay conversation to take place between an HCO user and a TTY user.
738 HCO-to-HCO allows a relay conversation to take place between two HCO users.

739 "Public coin and coinless telephone service", telephones operated by coin or credit card
740 located in high volume traffic areas that return substantial revenue, including, but not limited to,

741 police stations, hospitals, airports, bus terminals, train stations, libraries, social security,
742 medicaid and medicare offices, and shopping centers.

743 "Semi-public coin and coinless telephone service", telephones operated by coin or credit
744 card located in low volume traffic areas that return moderate revenue, including, but not limited
745 to, convalescent homes, elderly housing complexes and small meeting houses.

746 "SCPE", specialized, customer-premises equipment, such as artificial larynxes, signaling
747 devices, amplified handset, telephones, hands-free telephones, text telephones, memory
748 telephones, direct telephone dialing, braille text telephones, captioned telephone, and other
749 devices which provide access to telephone networks for people with a hearing, speech, vision,
750 mobility or cognitive disability.

751 "SCPE distribution service", a system of administration and record keeping, as well as
752 distribution, repair and replacement of SCPE units for certified subscribers.

753 "Text telephone" or "TTY", a machine that employs graphic communication in the
754 transmission of coded signals through a wire or radio communication system. TTY supersedes
755 the term "TDD" or "telecommunications device for the deaf," and TT.

756 "Telecommunications relay service" or "TRS", a telephone transmission service that
757 provide the ability for an individual who has a hearing or speech disability to engage in
758 communication by wire or radio with a hearing individual in a manner that is functionally
759 equivalent to the ability of an individual who does not have a hearing or speech disability to
760 communicate using voice communication services by wire or radio. Such terms include services
761 that enable two-way communication between an individual who uses a text telephone or other

762 nonvoice terminal device and an individual who does not use such a device, speech-to-speech
763 services, and non-English relay services. TRS supersedes the terms "dual party relay system,"
764 "message relay services," and "TDD Relay."

765 "Voice carry over service", or "VCO", a form of TRS where the person with the hearing
766 disability is able to speak directly to the other end user. The third party types the response back
767 to the person with the hearing disability. The third party does not voice the conversation. Two-
768 line VCO is a VCO service that allows TRS users to use one telephone line for voicing and the
769 other for receiving TTY messages. A VCO-to-TTY TRS call allows a relay conversation to take
770 place between a VCO user and a TTY user. VCO-to-VCO allows a relay conversation to take
771 place between two VCO users.

772 (b) The department shall provide and maintain a SCPE distribution service, and shall
773 make such services available to any residential subscriber who is (i) certified by the
774 Massachusetts commission on the deaf and hard of hearing as sufficiently deaf or hard of
775 hearing to be in need of SCPE equipment, (ii) certified by the Massachusetts commission for the
776 blind as sufficiently visually impaired to be in need of SCPE equipment, or (iii) certified by the
777 Massachusetts rehabilitation commission as otherwise sufficiently disabled to be in need of
778 SCPE equipment. Each commission may designate the department to administer the
779 certification process required under this section. For the purposes of making this certification,
780 the respective aforementioned commissions shall require a written verification of the alleged
781 disabilities by a physician, certified audiologist or optometrist, or other medical professional
782 qualified to verify the disability in question, and licensed to do business in the commonwealth.
783 The department, upon the request of a certified subscriber, shall provide SCPE equipment to the
784 requesting subscriber; provided, however that subject to the provisions of this subsection and

785 subsection (c), the SCPE distribution service shall include the reasonable distribution and
786 replacement of SCPE equipment free of charge, to certified subscribers. Such service shall be
787 provided free of charge, or at reduced rates if the department of telecommunications and cable
788 first certifies that said requesting subscriber is unable to afford said SCPE equipment at its full
789 cost. Any reduced rate shall be in accordance with a rate schedule established by the department
790 of telecommunications and cable.

791 (c) The department and the Massachusetts commission of the deaf and hard of hearing
792 shall review such services specified in subsection (b) and make recommendations to the
793 department of telecommunications and cable as to whether it conforms with the provisions
794 herein. Said department of telecommunications and cable shall promulgate rules and regulations
795 necessary to carry out the provisions of this section; provided, however, that prior to such
796 implementation of such services under subsection (b) the department and the Massachusetts
797 commission on the deaf and hard of hearing shall issue a request for proposals subject to the
798 department of telecommunications and cable's review and approval seeking competitive bids
799 from qualified vendors to provide the aforementioned services. Communications services
800 providers shall be permitted to submit a competitive bid to provide the aforementioned services.
801 In any rate proceeding conducted under chapter 159 in which a common carrier seeks to reflect
802 the costs for such services in rates said carrier shall submit to the department of
803 telecommunications and cable such information about said requests for proposals so that the
804 department of telecommunications and cable may determine said carrier is providing such
805 services at a cost to said carrier that reflects the least cost to its ratepayers with due regard for
806 standards of reliability and quality that are consistent with the public interest.

807 (d) The department shall encourage prospective vendors of telecommunications relay
808 service to provide such service from a center located within the commonwealth using residents
809 of the commonwealth as employees of said center. Preference in employment at said center
810 shall be given to people with disabilities as defined by this section. Specialty types of TRS shall
811 not be required to be provided from a telecommunications service center located in the
812 commonwealth.

813 (e) The department and the Massachusetts commission of the deaf and hard of hearing
814 shall review such services and make recommendations to the department of telecommunications
815 and cable as to whether it conforms with the provisions herein. The department of
816 telecommunications and cable shall promulgate rules and regulations necessary to carry out the
817 provisions of this section; provided, however, that prior to such implementation of such services
818 under subsection (d) the department and the Massachusetts commission on the deaf and hard of
819 hearing shall issue a request for proposals subject to the department of telecommunications and
820 cable's review and approval seeking competitive bids from qualified vendors to provide the
821 aforementioned services. Communication services providers shall be permitted to submit a
822 competitive bid to provide the aforementioned services. In any rate proceeding conducted under
823 chapter 159 in which a common carrier seeks to reflect the costs for such services in rates said
824 carrier shall submit to the department of telecommunications and cable such information about
825 said requests for proposals so that the department of telecommunications and cable may
826 determine said carrier is providing such services at a cost to said carrier that reflects the least
827 cost to its ratepayers with due regard for standards of reliability and quality that are consistent
828 with the public interest.

829 (f) The department of telecommunications and cable, in accordance with its certification
830 by the FCC under 47 CFR 64.604 and 64.605(b), shall have general oversight over all aspects of
831 the provision of the SCPE and TRS programs, unless such certification is not renewed or is
832 revoked. Such oversight includes, but is not limited to, authority over the rates, terms, and
833 conditions, service quality, and enforcement of federal minimum standards for the provision of
834 such services.

835 (g) Any person, firm, corporation or other entity that provides public coin or coinless
836 telephone service or semi-public coin or coinless telephone service, shall provide and maintain
837 its public or semi-public telephones with a minimum of 25 percent of its public or semi-public
838 telephones with controls for sound amplification of incoming transmission consistent with
839 Massachusetts Architectural Access Code, codified at 521 CMR 1.0 et.seq.

840 (h) There shall be an advisory committee on accessibility to communication services for
841 disabled persons. Said advisory committee shall consist of the secretary of health and human
842 services or his designee; the commissioner of the Massachusetts commission for the deaf and
843 hard of hearing or his designee; the commissioner of the Massachusetts rehabilitation
844 commission or his designee; the commissioner of the Massachusetts commission for the blind or
845 his designee; the director of the Massachusetts office on disability or his designee; and 12
846 persons to be appointed by the governor, 2 of whom shall be persons who are deaf, 2 of whom
847 shall be persons who are hard of hearing, and 2 who are blind, 2 with other significant vision
848 impairments, 2 with impaired speech, and 2 with impaired mobility or motor skills. Each such
849 member of the advisory committee shall serve for a term of 3 years. The chairperson of the
850 advisory council shall be appointed by the governor and shall serve in this function for a term of
851 1 year. Said advisory council shall meet at least quarterly and shall make recommendations to

852 the department and the department of telecommunications and cable on all matters of policy
853 related to communication services and equipment for people with disabilities.

854 (i) The department and the department of telecommunications and cable shall each
855 promulgate necessary regulations relative to the provisions of this section after consultation
856 with the advisory committee on accessibility to telephone service for disabled persons.

857 SECTION 16. Chapter 269 of the General Laws, as so appearing, is hereby amended by
858 inserting after section 14A the following section:-

859 Section 14B. As used in this section, the following words shall have the following
860 meanings:-

861 “Emergency response services provider”, a police department, fire department,
862 emergency medical service provider, PSAP, public safety department, private safety department
863 or other public safety agency.

864 “PSAP” or “PSAP”, a facility assigned the responsibility of receiving 911 calls and, as
865 appropriate, directly dispatching emergency response services or transferring or relaying
866 emergency 911 calls to other public or private safety agencies or other PSAPs.

867 “Silent call”, a call or other communication made to a PSAP in which the initiating party
868 willfully fails to provide information regarding his or her identity or location or the nature of the
869 emergency. The initiating party shall not be considered to have provided any information that is
870 automatically transmitted by a communication device or network upon connection with a PSAP
871 including, but not be limited to, automatic location information and automatic number
872 information.

873 (a) Whoever: willfully communicates with or otherwise causes a communication with a
874 PSAP, either directly or indirectly, that (1) harasses or threatens 1 or more persons working with

875 or for an emergency response services provider; or (2) knowingly communicates a false alarm
876 or complaint or other false information; or (b) whoever willfully makes silent calls or, directly
877 or indirectly, causes silent calls to be made to 1 or more PSAPs for the purpose of causing the
878 dispatch of an emergency response services provider when no emergency exists, shall be
879 punished by imprisonment in the house of correction for not more than 1 year or by a fine of not
880 more than 1,000 dollars, or by both such fine and imprisonment. Any person convicted of a
881 second or subsequent violation of this section shall be punished by imprisonment in the house of
882 correction for not more than 2 ½ years or by a fine of not more than 5,000 dollars, or by both
883 such fine and imprisonment.

884 (b) After any conviction under this section, the court shall conduct a hearing to ascertain
885 the extent of costs incurred, and damages and financial loss sustained by any emergency
886 response services provider as a result of the violation and shall order the person convicted of
887 violating this section to make restitution to the emergency response services provider or
888 providers for any such costs, damages or loss. Restitution shall not be waived and shall be
889 imposed in addition to any imprisonment or fine, and not in lieu thereof, except that the court
890 shall consider the defendant's present and future ability to pay restitution in its determinations
891 relative to the imposition of a fine. In determining the amount, time and method of payment of
892 restitution, the court shall consider the financial resources of the defendant and the burden
893 restitution will impose on the defendant.

894

895 SECTION 17. Notwithstanding any general or special law to the contrary, balances as
896 of June 30, 2008 in the Wireless Enhanced 911 Fund as established by chapter 61 of the acts of
897 2002, and in the Wireline Enhanced 911 Fund as established by chapter 149 of the acts of 2004,

898 shall be transferred and deposited into the Enhanced 911 Fund as established by section 18 of
899 this act. All revenue remitted after July 31, 2008 from 911 surcharges in effect under sections
900 18H and 18H1/2 of chapter 6A through July 31, 2008 shall be deposited into the enhanced 911
901 fund established by section 18 of this act.

902 SECTION 18. Notwithstanding any general or special law to the contrary, this section
903 shall facilitate the orderly transfer of the employees, proceedings, rules and regulations,
904 property and legal obligations of the statewide emergency telecommunications board, as the
905 transferor agency, to the state 911 department, as the transferee agency, as follows:

906 (a) Subject to appropriation, the employees of the statewide emergency
907 telecommunications board, including those who immediately before the effective date of this act
908 hold permanent appointment in positions classified under chapter 31 of the General Laws or
909 have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do
910 not hold such tenure, or hold confidential positions, are hereby transferred to the state 911
911 department, without interruption of service within the meaning of said section 9A of said
912 chapter 31, without impairment of seniority, retirement or other rights of the employee, and
913 without reduction in compensation or salary grade, notwithstanding any change in title or duties
914 resulting from such reorganization, and without loss of accrued rights to holidays, sick leave,
915 vacation and benefits, and without change in union representation or certified collective
916 bargaining unit as certified by the state labor relations commission or in local union
917 representation or affiliation. Any collective bargaining agreement in effect immediately before
918 the transfer date shall continue in effect and the terms and conditions of employment therein
919 shall continue as if the employees had not been so transferred. The reorganization shall not
920 impair the civil service status of any such reassigned employee who immediately before the

921 effective date of this act either holds a permanent appointment in a position classified under
922 chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30
923 of the General Laws.

924 Notwithstanding any general or special law to the contrary, all such employees shall
925 continue to retain their right to collectively bargain under chapter 150E of the General Laws and
926 shall be considered employees for the purposes of said chapter 150E.

927 Nothing in this section shall be construed to confer upon any employee any right not held
928 immediately before the date of said transfer, or to prohibit any reduction of salary grade,
929 transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before
930 such date.

931 (b) All petitions, requests, investigations and other proceedings appropriately and duly
932 brought before the statewide emergency telecommunications board or duly begun by the
933 transferor agency and pending before it before the effective date of this act, shall continue
934 unabated and remain in force, but shall be assumed and completed by the state 911 department.

935 (c) All orders, rules and regulations duly made and all approvals duly granted by the
936 statewide emergency telecommunications board, which are in force immediately before the
937 effective date of this act, shall continue in force and shall thereafter be enforced, until
938 superseded, revised, rescinded or canceled, in accordance with law, by the state 911 department
939 .

940 (d) All books, papers, records, documents, equipment, buildings, facilities, cash and
941 other property, both personal and real, including all such property held in trust, which
942 immediately before the effective date of this act are in the custody of the statewide emergency
943 telecommunications board shall be transferred to the state 911 department.

944 (e) All duly existing contracts, leases and obligations of the statewide emergency
945 telecommunications board shall continue in effect but shall be assumed by the state 911
946 department. No existing right or remedy of any character shall be lost, impaired or affected by
947 this act.

948 (f) All references in any general or special law to the statewide emergency
949 telecommunications board or the principal officer thereof shall be deemed to refer to the state
950 911 department or the principal officer thereof.

951 SECTION 19. The regulations required to be adopted under subsection (a) of section
952 18H of chapter 6A of the General Laws by the state 911 department shall take effect on July 1,
953 2009. Until such time, the providers of prepaid wireless service shall not be subject to said
954 section 18H of said chapter 6A, except for subsection (g) of section 18H of said chapter 6A.

955 SECTION 20. The first reported required to be filed under subsection (j) of section 18B
956 of chapter 6A of the General Laws shall be filed not later than June 30, 2011.

957 SECTION 21. Section 15 of this act shall become effective on February 1, 2009.
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